

CHRISTOPHER CHIOU
Acting United States Attorney
District of Nevada
Nevada Bar No. 14853
JESSICA OLIVA
Assistant United States Attorney
501 Las Vegas Blvd. So., Suite 1100
Las Vegas, Nevada 89101
Tel: (702) 388-6268
jessica.oliva@usdoj.gov

Attorneys for the United States

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES ROBERT KENNEDY

Defendant.

Case No. 2:18-cr-267-RFB-VCF

**STIPULATION FOR PRE-SENTENCE
PAYMENT TOWARD RESTITUTION**

The parties, pursuant to 28 U.S.C. §§ 2041-2042, hereby stipulate to the pre-sentence deposit of funds to be withdrawn and applied toward Defendant James Robert Kennedy's restitution amount in this matter at the time judgment is entered. The stipulation is based on the following:

1. On August 29, 2018, Defendant James Robert Kennedy ("Kennedy") was charged by indictment with three counts of Use or Trafficking in Unauthorized Access Device in violation of 18 U.S.C. § 1029(a)(2) and (c)(1)(A)(i) and three counts of Aggravated Identity Theft in violation of 18 U.S.C. § 1028A(a)(1). ECF No. 1.

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2. On September 16, 2021, pursuant to a written plea agreement, Kennedy pled guilty to Count 3 of the indictment, Use or Trafficking in Unauthorized Access Device in violation of 18 U.S.C. § 1029(a)(2) and (c)(1)(A)(i). ECF No. 85, 86.

3. Pursuant to the Plea Agreement, Kennedy agreed to “surrender assets defendant obtained directly or indirectly as a result of defendant’s crimes.” ECF No. 85 at 3. Kennedy further agreed “to pay full restitution to the victim(s) of the offense to which defendant is pleading guilty” and that the Court may order additional restitution, including to any victim for any losses suffered by that victim as a result of relevant conduct and dismissed counts. ECF No. 85 at 5. The parties believed the applicable amount of restitution was approximately \$49,608, but recognized and agreed that this amount could change based on facts that come to the attention of the parties prior to sentencing. *Id.*

4. The parties have conferred and hereby stipulate to the pre-sentence deposit of restitution funds with the Clerk of Court, to be held until the Judgment is entered in this matter by the Court.

5. The parties seek an order directing the Clerk of Court to accept Kennedy’s pre-sentence payments for restitution. Pursuant to 28 U.S.C. § 2041, the Clerk of Court is authorized to accept and hold such funds on behalf of Kennedy until the time of sentencing, which is currently scheduled for December 16, 2021. Further, pursuant to 28 U.S.C. § 2042, the parties request an order that upon the entry of a criminal judgment in this case, the Clerk of Court is to withdraw and apply the deposited funds to the criminal financial obligations, including restitution, imposed against Kennedy in the sequence established in 18 U.S.C. § 3612(c).

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6. Kennedy may submit payment by cash, cashier's check, or money order made payable to "Clerk, U.S. District Court" with "2:18-cr-267-RFB-VCF" noted on each payment mailed or delivered to:

Clerk of the Court, District of Nevada

333 Las Vegas Boulevard, South

Room 1334

Las Vegas, Nevada 89101

WHEREFORE, the parties stipulate for an order directing the Clerk of Court to accept pre-sentence payments to be held on deposit until judgment is entered, and thereafter applied toward the criminal monetary penalties, including restitution, imposed in this matter as provided by law and in accordance with the Clerk's standard operating procedures.

Respectfully submitted this 23rd day of November 2021.

CHRISTOPHER CHIOU
Acting United States Attorney

/s/ Jessica Oliva
JESSICA OLIVA
Assistant United States Attorney

/s/ Brian Pugh
BRIAN PUGH
Attorney for Defendant JAMES
ROBERT KENNEDY

IT IS SO ORDERED:



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE

DATED: December 7, 2021